

**REMARKS**

This Amendment is submitted in response to the final Office Action mailed on May 24, 2005. Claims 1-8 have been canceled without prejudice or disclaimer, and new claims 9-29 have been added. Claims 9-29 remain pending in the present application. In view of the foregoing amendments, as well as the following remarks, Applicant respectfully submits that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

The specification has been amended to correct the priority claim in the present application. The present application claims the filing benefit of U.S. Provisional Application Serial No. 60/399,021, filed July 29, 2002. Applicant previously filed a Supplemental Declaration, Power of Attorney, and Petition on June 29, 2005 to correct the claim of priority in the present application to U.S. Provisional Application Serial No. 60/399,021. It is respectfully requested that a corrected filing receipt be issued in the present application to include Applicant's corrected priority claim to U.S. Provisional Application Serial No. 60/399,021.

Applicant's counsel appreciates the courtesy extended by Examiner Verbitsky during a recent telephone interview conducted between Applicant's counsel and Examiner. During that telephone interview, Applicant's counsel and Examiner discussed the prior art of record and proposed new claims to overcome the outstanding rejections. Examiner brought to Applicant's attention newly cited Beerwerth et al., U.S. Publication No. US2004/0013162, Lin, U.S. Patent No. 6,254,271 and Wu, U.S. Patent No. 6,238,088. These three new references cited by Examiner, and other prior art references previously cited by Applicant in the disclosure of the present application,

have been formally made of record by Applicant in an Information Disclosure Statement mailed June 30, 2005.

During the telephone interview, Applicant's counsel and Examiner discussed an important feature of the present invention is to minimize heat transfer from a patient's body tissue to a sensor within a medical instrument probe through a probe wall of the probe. To this end, the present invention is directed to a plurality of discrete depressions disposed substantially along the elongated length of the probe wall that form a plurality of discrete, generally thermally insulative air pockets between the patient's body tissue and the probe wall when the probe is inserted into the patient's body orifice.

In one embodiment of the present invention, as recited in claims 9-13, the plurality of air pockets are configured to define, when covered by the patient's body tissue, the plurality of discrete, generally thermally insulative air pockets. Support for these claims is provided at Page 5, lines 15-17 of Applicant's disclosure, for example.

In another embodiment of the present invention, as recited in claims 14-19, a probe cover envelops the probe wall such that the plurality of air pockets define, in combination with the probe cover, the plurality of discrete, generally thermally insulative air pockets. Support for these claims is provided at Page 5, lines 12-15 of Applicant's disclosure and is shown in Fig. 4, for example.

In yet another embodiment of the present invention, as recited in claims 20-24, an outer layer is supported by the probe wall such that the plurality of air pockets define, in combination with the outer layer, the plurality of discrete, generally thermally

insulative air pockets. Support for these claims is provided at Page 5, lines 18-23 of Applicant's disclosure and is shown in Fig. 6, for example.

Claims 25-29 are directed to a method of providing thermal insulation in a medical instrument probe configured for insertion into a patient's body orifice, wherein the probe has a probe wall configured to be placed adjacent a patient's body tissue when the probe is inserted into the patient's body orifice. The method comprises the step of providing a plurality of discrete depressions disposed substantially along the elongated length of the probe wall to define a plurality of discrete, generally thermally insulative air pockets between the patient's body tissue and the probe wall when the probe is inserted into the patient's body orifice.

Applicant respectfully submits that the combination of elements or steps recited in each of new claims 9-29 is not taught or suggested by the prior art of record and these claims clearly define over the prior art of record. Accordingly, Examiner's allowance of new claims 9-29 is respectfully requested as discussed during the telephone interview.

### Conclusion

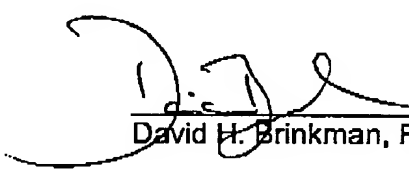
In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Please charge Deposit Account No. 23-3000 in the amount of \$125.00 for one additional claim and one additional independent claim as required by 37 C.F.R.

§ 1.16(h) and (i). If any additional fees are deemed necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

  
\_\_\_\_\_  
David H. Brinkman, Reg. No. 40,532

2700 Carew Tower  
441 Vine Street  
Cincinnati, Ohio 45202  
(513) 241-2324 - Voice  
(513) 421-7269 - Facsimile